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REMARKS

These remarks are responsive to the Examiner's action mailed May 27, 2005. All rejections are respectfully traversed; reconsideration is requested in view of these remarks.

Claims 1-4 are pending.

Claims 38-40 have been allowed.

Claims 1, 3-5, 8, 16, 18-20, 23, 31 and 33-37 stand rejected.

Claims 6-7, 9-15 21, 22 and 24-30 stand objected.

Rejection of claims 1, 16 and 37 under 35 U.S.C. §103(a) based on Andersson et al. (U.S. Patent No. 6,434,380):

The Office Action rejects claims 1, 16 and 37 in that Andersson suggests that the claimed negotiation step includes periodically renegotiating a new value for the current resource setting upon detecting a negotiation event. The office action cites the resource change logic 160 in Anderson as performing this operation. However, the Andersson resource change logic 160 differs from the claimed negotiation event because Anderson requires a determination of sufficient purchase units (8:23-25) to render a success/failure determination (8:38-41). Therefore, the resource change logic 160 differs from the claimed negotiation event and resource negotiation recited in claims 1, 16 and 37 because the resource change logic computes an absolute success or failure based on cost units, while the claimed negotiation determines an optimal level of resource usage. Accordingly, one skilled in the art would not look to modify Anderson to achieve the claimed invention because Anderson shows a discrete, Boolean (yes/no) determination, while the claimed negotiation computes an optimal level along a continuum of resource allocation.

Rejection of claims 5, 20 and 35 under 35 U.S.C. §103(a) based on Andersson et al. (U.S. Patent No. 6,434,380) :

The Office Action further rejects claims 5, 20 and 35 based on the suggestion that Andersson teaches calculation of a new value for the resource setting. However, Andersson discloses preparation of a resource bid (change request) for submission to a resource manager. Such a bid is merely a request subject to a determination (7:67-8:2), not the claimed calculation of a new value. As discussed above with respect to claim 1, the resource bid triggers a selective determination of sufficient cost units, or monetary resources, resulting in an acceptance or rejection of the request. This differs from the claimed calculation because the Andersson disclosure specifies a selective response to a request based on conditional logic (e.g. sufficient ability to pay for the additional bandwidth). Accordingly, there is no showing, teaching, or suggestion of the claimed calculation of the new resource setting in Andersson, alone or in combination, which would prompt one of ordinary skill to look to modify Anderson in line with the claimed invention.

Rejection of claims 8, 23 and 36 under 35 U.S.C. §103(a) based on Andersson et al. (U.S. Patent No. 6,434,380) in view of Goguen et al. (U.S. Patent No. 6,665,273) and further in view of Hamalainen et al. (U.S. Patent No. 6,570,860):

The Office Action further rejects claims 8, 23 and 36 under on 35 U.S. C. §103(a) based on Andersson '380 in view of Goguen '273 and Hamalainen '860. The Office Action suggests that the calculation of a new resource settings is taught by Hamalainen '860. Hamalainen '860, however, discloses ranges which are requirements for operation, not desirable for optimization. In a cell phone environment, as in Hamalainen, certain minimum power and transmission levels are to be maintained to avoid connection loss (5:57-59). Accordingly, the Hamalainen ranges are operational requirements for minimum and maximum resource levels, not desirable optimizations as are the claimed resource settings. Therefore, one skilled in the art would not look to Hamalainen to modify Andersson because Hamalainen teaches mandatory operational requirements,

not permissive performance optimizations. The Office Action suggests that the Hamalainen upper and lower limits are desired user specifications. It is respectfully submitted that these ranges in Hamalainen are operational requirements, not user preferences.

With respect to Goguen, the cited reference pertains to bandwidth allocation for tunnels in a Multiprotocol Label Switched (MPLS) network. The Goguen tunnels are assigned utilization values based on actual byte counts (Goguen 6:55-59). Goguen redistributes excess bandwidth, based on the actual counts, to distribute unused bandwidth. Goguen does not make any showing, teaching, or suggestion of calculating a new value for a resource setting using an accrued usage cost, rather than an actual byte count, as discussed at page 8, lines 6-16. Therefore, one skilled in the art would not look to Goguen to arrive at the claimed calculation of the new value recited in claims 8, 23 and 36. Further, even if one were to modify Andersson based on Goguen the claimed invention would still not be realized because Goguen employs actual byte counts, not accrued values for calculating a new value for the current resource setting that approximated the actual usage, as recited in claim 5. Accordingly, it is respectfully submitted that claims 8, 23 and 36 are allowable in view of the above remarks.

As the remaining claims depend, either directly or indirectly, from claims 1, 5, 8, 16, 20, 23 and 35-37, which by the foregoing remarks are deemed allowable, it is respectfully submitted that all claims are appropriate for allowance.

Applicant(s) hereby petition(s) for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-0901.

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If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 366-9600, in Westborough, Massachusetts.

Respectfully submitted,



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